

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION****ENTERED**

December 15, 2016

David J. Bradley, Clerk

TRACY WARNER,

Plaintiff,

V.

THE PRUDENTIAL INSURANCE  
COMPANY OF AMERICA,

Defendant.

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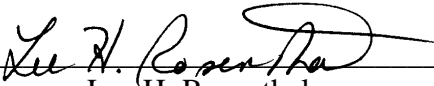
CIVIL ACTION NO. H-16-2589

**ORDER**

The plaintiff, Tracy Warner, filed this suit seeking to recover her fiancée's life insurance benefits after the defendant, Prudential Insurance, denied the claim. (Docket Entry No. 1, ¶¶ 10, 11, 13). Prudential Insurance has moved to dismiss on the ground that Ms. Warner sought relief only under Texas law, but that the federal ERISA statute preempted her claims. (Docket Entry No. 9). Prudential Insurance also argued that Ms. Warner's jury-trial request should be stricken because ERISA does not provide for a jury trial. (*Id.* at 7–10). In response, Ms. Warner amended her complaint to allege only an ERISA claim, with no jury demand. (Docket Entry No. 10 ¶¶ 21–22). She noted that she amended the complaint to address Prudential Insurance's argument. (Docket Entry No. 11).

Prudential Insurance's motion to dismiss is denied as moot in light of the amended complaint.

SIGNED on December 15, 2016, at Houston, Texas.

  
 Lee H. Rosenthal  
 Chief United States District Judge